HON'BLE THE CHIEF JUSTICE SRI G.S. SINGHVI
AND
HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

Writ Appeal No. 467 of 2007

Between:

Private Law Colleges Management's Association, Hyderabad

... Appellant

And

State of Andhra Pradesh rep. by its Principal Secretary, Higher Education Department, Hyderabad & others

... Respondents

:: J U D G M E N T ::

Counsel for the appellant : Shri D.V. Seetharama Murthy for Smt. M. Renuka

Counsel for respondent Nos. 4,6,7 & 9: Shri D. Prakash Reddy, Senior Advocate assisted by Shri P. Venkat Reddy

Counsel for respondent No.12 : Shri B.V. Rajaram

Counsel for respondent No.17 : Shri Deepak Bhattacharjee

June 11, 2007

Per G.S. Singhvi, CJ

This appeal is directed against order dated 17.04.2007 passed by the learned Single Judge in W.V.M.P.Nos. 318 of 2007 and batch in

W.P.M.P.No.21769 of 2006 (W.P.No.17368 of 2006), whereby he vacated the interim stay granted against notification dated 21.04.2006 issued by the Andhra Pradesh State Council of Higher Education (for short, 'the Council') inviting applications for commencement of new private unaided law colleges in the State.

Shri D.V. Seetharama Murthy, learned counsel appearing for the appellant strenuously urged that the discretion exercised by the learned Single Judge in not continuing the ad interim order against notification dated 21.04.2006 issued by the Council is vitiated by an error of law and fraught with danger of the legal education getting into a mess and, therefore, the Division Bench may revive the ad interim stay and restrain the official respondents from taking any action in furtherance of notification dated 21.04.2006. He submitted that in terms of Section 20(3) of the Andhra Pradesh Education Act, 1982 (for short, 'the Act'), the State is duty-bound to make an assessment of the need of establishing new colleges, but no such exercise was undertaken and yet the Council issued notification for establishment of new unaided private colleges. Shri Setharama Murthy pointed out that a large number of seats in the existing colleges could not be filled necessitating reduction in the percentage of marks from 35 to 29 and argued that in this scenario there can be no justification for starting new private colleges. Learned counsel submitted that even though the members of the appellant association can be treated as competitors in business, they have a legitimate right to seek intervention of the Court for ensuring rigorous compliance of the provisions contained in Section 20(3) of the Act and Rule 18 of the Rules framed by the Bar Council of India for grant of affiliation to law colleges.

Shri D. Prakash Reddy, learned Senior Counsel appearing for respondent Nos. 4, 6, 7 and 9 and Shri Deepak Bhattacharjee, learned counsel appearing for respondent No.17 supported the order under challenge and argued that the appellant does not have the locus to question the action initiated by the State Government and the Council for establishing new law colleges.

We have given serious thought to the argument of the learned counsel for the appellant and scrutinized the record.

It is neither the pleaded case of the appellant nor any material has been placed on the record of the writ petition to show that the members of the appellant are running law colleges as a charity or philanthropy. Therefore, their locus to question the action taken by the government for inviting applications for establishing new law colleges is extremely doubtful. However, we do not consider it proper to express any conclusive opinion on this issue because the writ petition filed by the appellant questioning notification dated 21.04.2006 is pending before the learned Single Judge.

Admission of the writ petition or issue of notice to the opposite parties can, at best, be treated as indicative of the existence of prima facie case in favour of the appellant, but that, by itself, cannot justify stay of notification dated 21.04.2006 because the elements of balance of convenience and irreparable injury are clearly against grant of an interim prohibition against establishment of new private aided colleges.

The learned Single Judge amply protected the interest of the community by directing that permission granted by the State Government to the private respondents to establish law colleges is not conclusive and it will be subject to the decision taken by the Bar Council of India in terms of Rule 18(d)(1) and (2) of the relevant Rules.

In the result, the appeal is dismissed.

As a sequel to dismissal of the writ appeal, W.A.M.P.No. 880 of 2007 filed by the appellant for interim relief is also dismissed.

G.S. SINGHVI, CJ

C.V. NAGARJUNA REDDY, J

11.06.2007
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